

BAKER v. ORDER OF CANADIAN HOME CIRCLES—FALCONBRIDGE,
C.J.K.B., IN CHAMBERS—MARCH 19.

Appeal—Motion for Leave to Appeal from Order of Judge in Chambers—Parties—Revivor—Status of Plaintiff—Preservation of Rights of Defendants—Refusal of Leave.]—Motion by the defendants for leave to appeal to a Divisional Court from an order made by MIDDLETON, J., in Chambers, on the 8th December, 1916, allowing an appeal from an order of the Master in Chambers, and directing that the action be continued with Daniel Baker, the executor of the plaintiff, as party plaintiff against the society as defendants, by order to proceed; that Daniel Baker, who had filed his consent in writing, should be added as a party plaintiff in his personal capacity, and the proceedings in the action be amended accordingly, but the action should be deemed to have been brought by Daniel Baker on the 8th December only, without prejudice to his right to contend that the original action was duly brought by him under the authority conferred by a certain assignment; and allowing both parties to amend the proceedings. The appeal was against so much of the order as directed that the action should continue with Daniel Baker, the executor of the plaintiff, as party plaintiff by order to proceed. FALCONBRIDGE, C.J.K.B., in a written judgment, said that the order of MIDDLETON, J., seemed to be eminently just and equitable. It gave the plaintiff a chance to have his rights adjudicated upon at the trial, and at the same time carefully preserved any right which the defendants might have acquired. Leave to appeal refused; costs of the application to be costs to the plaintiff in any event. V. H. Hattin, for the defendants. W. A. Skeans, for the plaintiff.